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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/659,977 | 09/11/2003 | Eric L. Barsness | ROC920030288US1 | 5062 |
| 46797 | 7590 | 09/18/2006 | EXAMINER | |
| IBM CORPORATION, INTELLECTUAL PROPERTY LAW DEPT 917, BLDG. 006-1 3605 HIGHWAY 52 NORTH ROCHESTER, MN 55901-7829 | | | ZURITA, JAMES H | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3625 | |

DATE MAILED: 09/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/659,977

Applicant(s)

BARNESS ET AL.

Examiner

James H. Zurita

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Prosecution History

On 11 September 2003 applicant filed this application, without claims to priority.

On 17 March 2005, the application was published as PG-PUB 20050060237A1.

On 8 June 2006, the Examiner issued a restriction requirement.

On 10 July 2006, applicant elected claims 18-25, cancelled claims 1-17, 26-38, and added claims 39-54. New claims 39-54 are parallel media and environment claims.

Election/Restrictions

Applicant's election without traverse of claims 18-25 in the reply filed on 10 July 2006 is acknowledged. Claims 18-25 and 39-54 are pending.

Drawings

The drawings are objected to because of minor informalities:

Fig. 2, item 242 lacks directional arrows for **yes** and **no**.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

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changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action.

The objection to the drawings will not be held in abeyance.

Specification

On page 11, paragraph [0040], the attempt to incorporate subject matter into this application by reference to some unknown application is ineffective because the application number is not identified.

The Examiner believes applicant attempts to incorporate application **10/659976**, filed September 12 2003, published on 17 March 2003 as PG-PUB US 20050060163 A1, attorney docket number ROC920030207US1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

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applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 18-23, 39-44 and 47-52 are rejected under 35 U.S.C. 102(e) as being anticipated by Solomon (US PG-PUB US 20040162638 A1).

As per claim 18, Solomon discloses computer-implemented method of providing access to grid computing resources available to a plurality of users, comprising:

receiving, from a requesting entity, a plurality of requests related to a benchmarking operation (as in paragraph 0068, for example), wherein

- at least one of the requests comprises a defined function to be performed (see, for example, at least paragraph 0069) and
- at least each of the remaining requests comprise a different resource specific criterion identifying a different specific resource to perform the defined function (as in paragraph 0341, for example);

based on each resource specific criterion, identifying a grid computing resource as the specific resource to perform the defined function (see, for example, at least paragraph 0365) wherein a different grid computing resource is identified for each different resource specific criterion (for example, paragraph 0365 notes specific location criteria); and

submitting each request to perform the defined function to an appropriate grid resource according to the respective different resource specific criteria (as in paragraph 0315, for example).

As per claim 19, Solomon discloses that each different resource specific criterion uniquely identifies a different particular computer and wherein identifying the grid computing resource comprises identifying the particular computer (see, for example, at least paragraph 0365).

As per claim 20, Solomon discloses that each different resource specific criterion uniquely identifies different particular computer hardware and wherein identifying the grid computing resource comprises identifying a particular computer having the particular computer hardware (see, for example, at least paragraph 0027)

As per claim 21, Solomon discloses that each different resource specific criterion uniquely identifies different particular computer software and wherein identifying the grid computing resource comprises identifying a particular computer having the particular computer software (see, for example, combination of hardware and software agents, as in paragraph 0310).

As per claim 22, Solomon discloses that each different resource specific criterion is selected from one of an operating system criterion, a central processing unit criterion, a memory criterion, a hard disk criterion and a combination thereof (see, for example, at least paragraph 0084).

As per claim 23, Solomon discloses performing the defined function using the identified grid computing resource; and returning a result to the requesting entity indicating performance of the defined function (see, for example, references to results, as in paragraph 0032).

Claim 39 is rejected on the same grounds as claim 18.

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Claim 40 is rejected on the same grounds as claim 19.

Claim 41 is rejected on the same grounds as claim 20.

Claim 42 is rejected on the same grounds as claim 21.

Claim 43 is rejected on the same grounds as claim 22.

Claim 44 is rejected on the same grounds as claim 23.

Claim 47 is rejected on the same grounds as claim 18.

Claim 48 is rejected on the same grounds as claim 19.

Claim 49 is rejected on the same grounds as claim 20.

Claim 50 is rejected on the same grounds as claim 21.

Claim 51 is rejected on the same grounds as claim 22.

Claim 52 is rejected on the same grounds as claim 23.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24-25, 45-46 and 53-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Solomon in view of Wu (PG-PUB 20050038708).

Solomon does not explicitly disclose determining a price to be charged for fulfilling the requests (claim 24) and charging the price for fulfilling the request (claim 25). These limitations are disclosed by WU, as in paragraph 0024, for example.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Solomon and Wu to disclose determining a price to be charged for fulfilling the requests (claim 24) and charging the price for fulfilling the request (claim 25).

One of ordinary skill in the art at the time the invention was made would have been motivated to combine Solomon and Wu to disclose determining a price to be charged for fulfilling the requests (claim 24) and charging the price for fulfilling the request (claim 25) for the obvious reason that businesses need to charge money for their services and products in order to stay in business.

Claim 45 is rejected on the same grounds as claim 24.

Claim 46 is rejected on the same grounds as claim 25.

Claim 53 is rejected on the same grounds as claim 24.

Claim 54 is rejected on the same grounds as claim 25.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Zurita whose telephone number is 571-272-6766. The examiner can normally be reached on 8a-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

James Zurita
Patent Examiner
Art Unit 3625
11 September 2006

James Zurita
Primary Examiner